IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 250 of 2001 (M/B)

UPSRTC through Regional Manager,
Tanakpur, District Nainital. …… Petitioner.

Versus

1. State of Uttar Pradesh,
through Collector/Tehsildar,
Khatima.
2. Regional Provident Fund Commissioner,
Uttar Pradesh Nidhi Bhawan,
Sarvodaya Nagar, Kanpur. ……. Respondents

Mr. Ram Ji Srivastava, Advocate for the petitioner.
Ms. Beena Pandey, Standing Counsel for respondent No. 1.
None for respondent No. 2.

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. Ram Ji Srivastava, Advocate for the petitioner.

Ms. Beena Pandey, Standing Counsel for respondent No. 1.

None for respondent No. 2.

2. The Petitioner has filed this writ petition for the following reliefs:

> "i) a writ, order or direction in the nature of certiorari quashing the order dated 27.11.1991 imposing damages u/s 14B of the Act and recovery proceedings on that basis in view of order dated 26.5.92 (Annexure 4.)
>
> ii) a writ, order or direction in the nature of mandamus commanding the respondents not to proceed with the recovery during the pendency of the present writ petition;
>
> iii) any other writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstance of the case.
>
> iv) Award cost of the petition to the petitioner."

3. Thus, it is apparent that the petitioner is seeking quashing of the order, whereby damages under Section 14B were imposed on the petitioner.

4. An order passed under Section 14B is appealable under Section 7I of the Employer's Provident Funds and Miscellaneous Provisions Act, 1952.

5. Admittedly, the petitioner has not availed the statutory remedy of filing an appeal against the order passed under Section 14B of the Act before filing the writ petition. The writ petition, therefore, is liable to be dismissed on this short ground alone.

6. The petitioner, however, shall be at liberty to avail the remedy of filing statutory appeal under Section 7I and seeking condonation of the delay in filing the appeal on the ground that the petitioner was pursing the writ petition under a bonafide belief.

7. With the above observation, the writ petition stands disposed of.

(Prafulla, C. Pant, J.)
26.04.2006

(Rajeev Gupta, C.J.)
26.04.2006

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